

PREVENT TRAFFICKING IN CULTURAL PROPERTY ACT

SEPTEMBER 19, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BRADY of Texas, from the Committee on Ways and Means,
submitted the following

R E P O R T

[To accompany H.R. 2285]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 2285) to improve enforcement against trafficking in cultural property and prevent stolen or illicit cultural property from financing terrorist and criminal networks, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Prevent Trafficking in Cultural Property Act”.

SEC. 2. DEFINITION.

In this Act, the term “cultural property” includes property covered under—

(1) Article 1 of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted at the Hague on May 14, 1954 (Treaty 13 Doc. 106–1(A)); or

(2) Article 1 of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, adopted by the United Nations Educational, Scientific and Cultural Organization (“UNESCO”) on November 14, 1970.

SEC. 3. STATEMENT OF POLICY.

It shall be the policy of the United States to—

(1) ensure the components of the Department of Homeland Security enhance and unify efforts to—

(A) interdict, detain, seize, and investigate cultural property illegally imported into the United States;

(B) disrupt and dismantle smuggling and trafficking networks and transnational criminal organizations engaged in, conspiring to engage in, or facilitating illegal trade in cultural property, including stolen antiquities used to finance terrorism; and

(C) support Offices of United States Attorneys in prosecuting persons engaged in, conspiring to engage in, or facilitating illegal trade in cultural property; and

(2) protect cultural property pursuant to its obligations under the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, and the Convention on Cultural Property Implementation Act (19 U.S.C. 2601–2613).

SEC. 4. ACTIVITIES OF THE DEPARTMENT OF HOMELAND SECURITY.

The Commissioner of U.S. Customs and Border Protection and the Director of U.S. Immigration and Customs Enforcement shall—

(1) designate a principal coordinator within U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, respectively, to direct, manage, coordinate, and update their respective policies and procedures, as well as conduct interagency communications, regarding illegally imported cultural property;

(2) update existing directives, regulations, rules, and memoranda of understanding of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, respectively, and, if necessary, devise additional directives, regulations, rules, and memoranda of understanding, relating to policies and procedures on the illegal importation of cultural property in order to—

(A) reflect changes in cultural property law, including changes and updates to relevant treaties, bilateral agreements, statutes, regulations, and case law that occurred subsequent to Customs Directive No. 5230–015, “Customs Directive on Detention and Seizure of Cultural Property”, dated April 18, 1991;

(B) emphasize investigating, and providing support for investigations and prosecutions, of persons engaged in, conspiring to engage in, or facilitating the illegal importation of cultural property, including smugglers, dealers, buyers, money launderers, and any other appropriate parties; and

(C) provide for communication and coordination between relevant U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement offices, respectively, in investigating and supporting prosecutions of persons engaged in, conspiring to engage in, or facilitating the illegal importation of cultural property; and

(3) ensure relevant personnel within U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, respectively, receive sufficient training in—

(A) relevant cultural property laws;

(B) the identification of cultural property that is at greatest risk of looting and trafficking; and

(C) methods of interdiction and investigative techniques specifically related to illegal trade in cultural property.

SEC. 5. ROLE OF THE SMITHSONIAN INSTITUTION.

The Secretary of Homeland Security shall ensure that the heads of all components of the Department of Homeland Security involved in cultural property protection activities are authorized to enter into agreements or memoranda of understanding with the Smithsonian Institution to temporarily engage personnel from the Smithsonian Institution for the purposes of furthering such cultural property protection activities.

SEC. 6. REPORT.

Not later than one year after the date of the enactment of this Act and three years thereafter, the Commissioner of U.S. Customs and Border Protection and the Commissioner of U.S. Immigration and Customs Enforcement shall jointly submit to the Committee on Ways and Means and the Committee on Homeland Security of the House of Representatives and the Committee on Finance and the Committee on Homeland Security and Governmental Affairs of the Senate a report on—

- (1) the progress of the implementation of this Act; and
- (2) other actions to enhance and unify efforts to interdict, detain, seize, and investigate cultural property illegally imported into the United States, and investigate, disrupt, and dismantle smuggling and trafficking networks engaged in, conspiring to engage in, or facilitating the illegal importation of cultural property.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 2285, the “Prevent Trafficking in Cultural Property Act,” strengthens the enforcement efforts of U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) to interdict, detain, seize, and investigate cultural property that was illegally imported into the United States and to disrupt and dismantle smuggling and trafficking networks that are engaged in the illegal trade of cultural property.

B. BACKGROUND AND NEED FOR LEGISLATION

H.R. 2285, the “Prevent Trafficking in Cultural Property Act,” improves the ability of the Department of Homeland Security to attack the Islamic State of Iraq and the Levant’s (ISIL) fundraising efforts. ISIL and its network loot and smuggle antiquities from world heritage sights and other articles of cultural heritage and sell them on the black market to fund their terrorist activities.

The Department of Homeland Security is responsible for detecting and interdicting such property in the United States. While resources are currently being dedicated to the training of personnel and coordination of efforts between CBP and ICE, illegal trade in cultural property continues to grow, and more tools are needed to address the problem. This legislation establishes a clear policy of the United States on the prevention of trafficking in cultural property and provides the United States Government with the tools it needs to effectively interdict, detain, seize, and investigate cultural property that was illegally imported into the United States, and to disrupt and dismantle smuggling and trafficking networks engaged in such activities.

C. LEGISLATIVE HISTORY

Background

H.R. 2285, the “Prevent Trafficking in Cultural Property Act,” was introduced on May 13, 2015, by Rep. Keating (D-MA) and re-

ferred to the Committee on Ways and Means, the Committee on Homeland Security, and the Committee on the Judiciary.

Committee hearings

No hearings were held on H.R. 2285.

Committee action

The Committee on Ways and Means marked up H.R. 2285, as amended by the Committee on Homeland Security, on September 14, 2016. Chairman Brady offered an amendment in the nature of a substitute. H.R. 2285 was then ordered favorably reported to the House of Representatives, as amended, by a voice vote (with a quorum being present).

II. EXPLANATION OF THE BILL

SECTION 1: SHORT TITLE

Section 1 entitles the bill the “Prevent Trafficking in Cultural Property Act”.

SECTION 2: DEFINITIONS

Section 2 provides a definition for the term “cultural property.”

SECTION 3: STATEMENT OF POLICY

Section 3 establishes the policy of the United States to ensure that U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) enhance and unify efforts to: (1) interdict, detain, seize, and investigate cultural property illegally imported into the United States; (2) disrupt and dismantle organizations engaged in the illegal trade in cultural property, including stolen antiquities used to finance terrorism; and (3) support U.S. Attorneys in prosecuting persons engaged in illegal trade in cultural property.

Section 3 further establishes the policy of the United States to protect cultural property pursuant to its obligations under the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict; the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property; and the Convention on Cultural Property Implementation Act.

SECTION 4: ACTIVITIES OF THE DEPARTMENT OF HOMELAND SECURITY

Section 4 requires CBP and ICE to: (1) designate principal coordinators to direct, manage, coordinate, and update policies and procedures regarding illegally imported cultural property; (2) update existing directives, regulations, rules, and memoranda of understanding, and, if necessary, to devise additional ones related to policies on the illegal importation of cultural property; and (3) ensure that relevant personnel receive sufficient training in cultural property laws, the identification of cultural property that is at risk of looting and trafficking, and methods of interdiction and investigative techniques.

SECTION 5: ROLE OF THE SMITHSONIAN INSTITUTION

Section 5 requires the Secretary of Homeland Security to ensure that all components of DHS involved in cultural property protection are authorized to enter into agreements with the Smithsonian Institution to temporarily engage Smithsonian personnel to further cultural property protection activities.

SECTION 6: REPORT

Section 6 requires CBP and ICE to submit a joint report to the House Committees on Ways and Means and Homeland Security and the Senate Committees on Finance and Homeland Security and Government Affairs on the implementation of this Act and other actions to enhance and unify efforts to interdict, detain, seize, and investigate cultural property illegally imported into the United States.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 2285, the Prevent Trafficking in Cultural Property Act, on September 14, 2016.

The bill, H.R. 2285 was ordered favorably reported to the House of Representatives as amended by a voice vote (with a quorum being present).

IV. BUDGET EFFECTS OF THE BILL

A. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

With respect to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 2285, the Prevent Trafficking in Cultural Property Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

B. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by the CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 16, 2016.

Hon. KEVIN BRADY,
*Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2285, the Prevent Trafficking in Cultural Property Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 2285—Prevent Trafficking in Cultural Property Act

H.R. 2285 would require the Department of Homeland Security (DHS) to designate certain officials to coordinate the department's efforts to protect international cultural property and develop strategies to reduce the illegal trade in such property. The legislation also would authorize DHS agencies to enter into agreements with the Smithsonian Institution for the temporary use of the institution's staff. Information from DHS indicates that many of the bill's requirements are already being met; thus, CBO estimates that implementing H.R. 2285 would cost less than \$500,000 annually. Such spending would be subject to the availability of appropriated funds.

Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 2285 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 2285 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

On December 9, 2015, CBO transmitted a cost estimate for H.R. 2285, as ordered reported by the House Committee on Homeland Security on November 4, 2015. The two versions of the bill are similar and CBO's estimates of the budgetary effects are the same.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's review of the provisions of H.R. 2285 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. No. 104-4).

The Committee states that there are no provisions that would impose a private sector mandate, as defined by UMRA, intergovernmental mandates or costs on state, local, or tribal governments.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

E. DUPLICATION OF FEDERAL PROGRAMS

In compliance with Sec. 3(g)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95-220, as amended by Pub. L. No. 98-169).

F. DISCLOSURE OF DIRECTED RULE MAKINGS

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that H.R. 2285 does not propose to repeal or amend any statute or part thereof.

VII. EXCHANGES OF LETTERS WITH ADDITIONAL COMMITTEES OF REFERRAL

BOB GOODLATTE, Virginia
CHAIRMAN

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ONE HUNDRED FOURTEENTH CONGRESS
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September 14, 2016

The Honorable Kevin Brady
Chairman
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Brady,

I write with respect to H.R. 2285, the "Prevent Trafficking in Cultural Property Act," which was referred to the Committee on Ways and Means and in addition to the Committee on the Judiciary among others. As a result of your having consulted with us on provisions within H.R. 2285 that fall within the Rule X jurisdiction of the Committee on the Judiciary, I agree to discharge our committee from further consideration of this bill so that it may proceed expeditiously to the House floor for consideration.

The Judiciary Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 2285 at this time, we do not waive any jurisdiction over subject matter contained in this or similar legislation and that our committee will be appropriately consulted and involved as this bill or similar legislation moves forward so that we may address any remaining issues in our jurisdiction. Our committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation and asks that you support any such request.

I would appreciate a response to this letter confirming this understanding with respect to H.R. 2285 and would ask that a copy of our exchange of letters on this matter be included in your committee report and in the *Congressional Record* during floor consideration of H.R. 2285.

Sincerely,



Bob Goodlatte
Chairman

cc: The Honorable John Conyers, Jr.
The Honorable Sander Levin
The Honorable Paul Ryan, Speaker
The Honorable Thomas Wickham, Jr., Parliamentarian

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

September 15, 2016

The Honorable Bob Goodlatte
Chairman
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

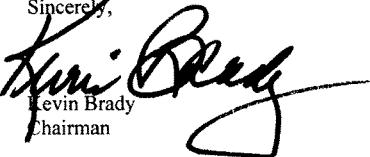
Dear Chairman Goodlatte,

Thank you for your letter regarding H.R. 2885, the "Prevent Trafficking in Cultural Property Act." As you noted, the Committee on the Judiciary was granted an additional referral of the bill.

I am most appreciative of your decision to waive formal consideration of H.R. 2885 so that it may proceed expeditiously to the House floor. I acknowledge that although you waived formal consideration of the bill, the Committee on the Judiciary is in no way waiving its jurisdiction over the subject matter contained in those provisions of the bill that fall within your Rule X jurisdiction. I would support your effort to seek appointment of an appropriate number of conferees on any House-Senate conference involving this legislation.

I will include a copy of our letters in the *Congressional Record* during consideration of this legislation on the House floor.

Sincerely,


Kevin Brady
Chairman

